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REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS MISSION IN BOSNIA AND HERZEGOVINA

I. INTRODUCTION

1. The present report is submitted pursuant to paragraph 20 of Security Council resolution 1247 (1999) of 18 June 1999, in which the Council, inter alia, requested the Secretary-General to report every three months on the implementation of the mandate of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) as a whole. The previous report dated 17 September 1999 (S/1999/989), provided a comprehensive overview of the contribution of the United Nations to peace implementation efforts in Bosnia and Herzegovina. The present report focuses on areas of recent progress and on further steps that will be necessary for UNMIBH to become more effective in achieving its core mandate in order to complete its mission sooner and successfully.

2. The Mission is headed by my Special Representative and Coordinator of United Nations Operations in Bosnia and Herzegovina, Jacques Paul Klein (United States of America). The Mission's International Police Task Force (IPTF), which continues to be led by Commissioner Detlef Buwitt (Germany), has an authorized strength of 2,057. However, owing mainly to redeployment of IPTF officers to the United Nations Interim Administration Mission in Kosovo (UNMIK), the current strength of IPTF is 1,795 (see annex).

II. POLICE RESTRUCTURING AND REFORM

3. During the period under review, intensified efforts in the areas of police registration, minority recruitment, exposing parallel police structures and the establishment of common institutions, such as the State Border Service, have begun to bear fruit. In November, UNMIBH commenced the establishment of the Law Enforcement Personnel Registry. This cornerstone project, which is expected to take at least two years, will result in the first ever authoritative, comprehensive and transparent register of all the approximately 20,000 authorized police officers in Bosnia and Herzegovina. During the first phase of the project, re-registration of 2,017 police officers was completed in the Srbinje (formerly Foca) Public Security Centre in the Republika Srpska, and commenced in Sarajevo Canton in the Federation. During the second phase, those

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officers will be tested, background checks will be conducted and relevant data assessed to determine whether they may be authorized to continue to exercise police powers. This process will also assist in identifying parallel police structures by registering and checking any other personnel who currently have regular and free access to Interior Ministry facilities.

4. Despite limited space and facilities, the two recently established police academies commenced their second intakes of minority recruits. Over the past six months, 85 minority cadets have entered the Republika Srpska academy and 195 have entered the Federation academy. These academies are now well established and planning has commenced for new intakes next year. While these developments are encouraging, training and recruitment of a small number of cadets is clearly not sufficient to significantly change the overall ethnic composition of local police forces. UNMIBH is, therefore, pursuing several methods by which to accelerate the establishment of multi-ethnic police forces. These include encouraging refugee former police officers to return to Bosnia and Herzegovina with the assistance of the International Organization for Migration, recruiting displaced former police officers and assisting them to return to their homes of origin, and arranging for the exchange of serving officers between the Republika Srpska and the Federation.

5. Comprehensive and intrusive inspections and audits of police facilities have continued to reveal grave deficiencies in supposedly unified police structures in ethnically mixed cantons of the Federation. During September and October, UNMIBH conducted comprehensive inspections of the six police stations in Mostar. In addition, in connection with a weapons inspection by the multinational stabilization force (SFOR) on 14 October, UNMIBH also obtained various financial and personnel documents on the Bosnian Croat police. These inspections and documents further confirmed the existence of parallel budgets and parallel personnel systems, undeclared police personnel, separate crime databases and shortcomings in the chain of command that constitute major impediments to professional and democratic policing. Regrettably, the political will of the Federation partners, particularly local Bosnian Croat authorities, to address such core issues is weak. Constant international presence and increased pressure are required to expose illicit police structures and to secure their removal.

6. To these ends, UNMIBH is intensifying its use of intrusive audits, that is, the exhaustive inspection and review of a particular police administration (including the search of facilities and documentation), and micro-audit mechanisms, which examine, analyse and compare specific aspects of policing in different police administrations. UNMIBH has also expanded the use of its co-location policy to enable closer scrutiny of police behaviour and provide on-the-job advice and training. Nearly 500 IPTF officers are now co-located with local police in 205 functional locations at 51 of the 56 main police stations in Bosnia and Herzegovina, including in sensitive areas of eastern Republika Srpska (Srbinje, Visegrad and Srebrenica). On 19 November, instructions were issued to expedite the assignment of a further 300 IPTF monitors to the UNMIBH co-location and special adviser programmes, including to cantonal public order support units and to court police in three cantons. In addition, during this period, civil affairs advisors were assigned to the Ministries of the Interior of both entities and to the Interior Ministry of

canton 7. Although full co-location is highly resource intensive, it is an essential tool to improve police professionalism and to ensure that political commitments to police restructuring are actually implemented in police stations.

7. In cases where individual police officers or government officials purposefully fail to perform their professional duties, UNMIBH has begun to develop a more effective system of reporting on non-compliance and a more robust policy of de-certification. Between 1 September and 17 November, IPTF issued 54 non-compliance reports relating to incidents of serious misconduct or non-cooperation. Of particular concern recently has been the refusal of several Bosnian Croat police administrations and judicial institutions to comply with the decision of the High Representative on the removal of non-neutral and offensive insignia in the Federation. In cooperation with the High Representative, UNMIBH is pursuing a policy of targeted pressure to overcome political obstruction from the leaderships of certain cantons. However, the latters' resistance to compromise on such important symbolic and substantive issues indicates, yet again, an inherent unwillingness to accept the basic terms of the Federation.

Common institutions

8. During the past quarter, my Special Representative has paid particular attention to aspects of the UNMIBH mandate that contribute directly to building common institutions to foster the development of Bosnia and Herzegovina as a State. The establishment of the State Border Service has been a difficult and unnecessarily prolonged endeavour. Following the Declaration of the Presidency of Bosnia and Herzegovina adopted in New York on 15 November (S/1999/1179, annex), the draft Border Law received the assent of the Presidency and has now been forwarded to the Parliament of Bosnia and Herzegovina for consideration. However, in view of the history of delay and obstruction caused by vested interests, which profit from the present lack of effective border control, the international organizations in Bosnia and Herzegovina will need to take a firm and united approach in implementing this critical project. On the operational side, UNMIBH and the Office of the High Representative have continued concurrent activities in preparation for the inauguration of the Border Service by 31 December. The first multi-ethnic group of 30 border police completed training in Austria on 17 December, with further courses scheduled for January and February. The interim headquarters location has been identified, the organizational structure defined and applications for senior management positions are being evaluated and employment contracts developed. However, there remain serious gaps in funding, particularly for uniforms and equipment.

9. The Mission has initiated efforts to establish a Bosnia and Herzegovina multi-ethnic civilian police contingent that will be available for participation in peacekeeping missions abroad. My Special Representative has promoted this idea in order to encourage international identity for the State of Bosnia and Herzegovina and to provide incentives to motivated and professional officers to work together in a neutral environment and bring back valuable experiences in international policing to their colleagues in the domestic police force. UNMIBH expects that a small Bosnia and Herzegovina police contingent will be available to participate in a United Nations peacekeeping mission in 2000. The effort has been endorsed by the Joint Presidency.

10. The implementation of the Brcko arbitration award provides a unique opportunity to establish a model district with innovative governance, which could be emulated in other parts of Bosnia and Herzegovina. In support of the High Representative's District Supervisor for Brcko, UNMIBH continues to provide advice on full implementation of police, judicial and other aspects of the Brcko arbitration award. The restructuring of the Brcko police force is scheduled to be completed in January 2000; 30 IPTF officers are now co-located in local police stations. Two UNMIBH judicial experts have provided significant assistance in drafting the judicial portions of the district statute to help ensure that the independence and accountability of rule of law institutions are guaranteed. However, political and financial constraints persist. The Minister of the Interior of the Republika Srpska has yet to finalize agreements regarding transit rights through Brcko and the use of forensic facilities for cases in the new district. It is also necessary that funding sources be identified as soon as possible to ensure that the pay, benefits and pensions of the police, judiciary and civil administration meet the vision and terms of the arbitration award.

III. JUDICIAL SYSTEM ASSESSMENT

11. The Mission has now completed baseline assessments of the functioning of most of the judicial system in Bosnia and Herzegovina. These assessments document in detail a grave lack of judicial independence, overt political interference and intimidation of judicial officials and substantial court inefficiencies, all of which undermine public confidence and impede the return of minorities to their pre-war homes of origin. UNMIBH has been instrumental in improving court efficiency and practice in areas such as the appointment of judicial officials to long-vacant positions. UNMIBH judicial experts have helped to organize the first inter-entity judiciary meetings since the war and to resolve some of the backlog of cases related to property and employment. Further substantive support has been given to the prosecution of terrorism and corruption cases. UNMIBH judicial experts have also been involved in improving the ethnic composition of courts in ethnically mixed cantons and promoting the transfer of the jurisdiction of minor offence courts to the appropriate levels. They have also assisted with the drafting of various laws and codes on criminal procedure, courts and judicial and prosecutorial services. Court assessment has identified crucial gaps in witness protection and the absence of a court police service. UNMIBH is addressing this issue by forming a Court Police Unit comprised of IPTF monitors and judicial experts.

12. Key to the establishment of the rule of law and the application of fundamental human rights is an effective and impartial judiciary. Legislation will be passed shortly in the Republika Srpska and the Federation, which will establish oversight bodies to review current judicial appointments and professionalize the future appointment and conduct of the judiciary. At the request of the High Representative, UNMIBH's judicial experts have contributed substantially to the drafting of that legislation. On 5 November, the High Representative wrote to my Special Representative stating his expectation that the Mission's judicial experts would take a leading role in the implementation of the pending laws once they are passed. These tasks will require UNMIBH to assist in the development of a methodology for judicial performance assessment

and, within one year of the entry into force of the legislation, to assist in the review of the qualifications and performance of approximately 800 current judges and prosecutors. Furthermore, the High Representative stated that he expects and encourages UNMIBH to expand its use of thematic reports to inform the international community of areas that require attention and to suggest possible solutions.

13. UNMIBH awaits the passage of the vital legislation on judicial commissions within the next two months, at which time it will require a short-term augmentation of its judicial expertise if it is to participate in the judicial commissions as well as maintain and expand the preparation of thematic reports. It is to be hoped that much of the basic work will be done by mid-2000, and a further assessment of this will be made in my next report. It is also clear that the specific role envisaged by the High Representative for UNMIBH's judicial personnel would entail, in addition to monitoring and assessing the judicial system, the authority to advise on ways to improve shortcomings, in particular regarding judicial appointments. Such authority would ensure the Mission's status before the judicial commissions and its ability to participate actively in their work and in the general promotion of the rule of law, within the overall coordination of the High Representative.

IV. COORDINATION OF THE UNITED NATIONS SYSTEM

14. My most recent report to the Council (S/1999/989) demonstrated in detail the interdependence of the work of the United Nations family, specialized agencies and programmes in support of civilian peace implementation. As coordinator of United Nations operations in Bosnia and Herzegovina, my Special Representative seeks to maximize synergy, make the best use of increasingly scarce resources and ensure that all agencies are able to contribute as effectively as possible to the peace process. During the period under review, the focus of coordination efforts included the return of refugees and displaced persons to areas where they would be in the ethnic minority, economic development programmes and the development of education policy and institutions to support multi-ethnic communities.

15. In the first ten months of 1999, the Office of the United Nations High Commissioner for Refugees (UNHCR) registered the return of 43,830 refugees and 32,695 internally displaced persons. Of these, 18,604 individuals were members of ethnic minorities returning to the Federation, while 9,522 individuals members of ethnic minorities were recorded returning to the Republika Srpska. In both entities, political and administrative obstruction at the local level and non-implementation of the property laws were major obstacles to the UNHCR return programme. In this regard, the recent property legislation imposed by the High Representative was a welcome step towards creating improved conditions for return. To assist in the implementation of the property laws, IPTF revised its guidelines and procedures concerning the role of police at evictions. The limited number of minority returns also constrained the success of the IPTF minority police recruitment programmes, which depend on the willingness of police officers to return to their place of origin and their ability to reoccupy their original homes. Working together with the Return and Reconstruction Task Force, renewed efforts were made to coordinate the availability of resources and

use these to support return-related projects, including the building of housing for minority police.

16. The World Bank, the United Nations Development Programme (UNDP) and the International Labour Organization (ILO) have continued to support the transition to a market economy. In its "transition to development" Framework, UNDP is facilitating reconstruction programmes related to refugee return, which also include support of good governance and the development of civil society. The World Bank has commenced implementation of projects to help establish the legal and administrative framework for privatization, assist local infrastructure projects in municipalities and provide working capital to export-oriented firms. ILO has sought to engage the two entities on labour-related issues with a view to standardizing legislation and identifying methods to reduce unemployment through its network of enterprise development agencies. In all of these areas, the establishment of effective rule of law institutions is key to sustainable economic development and improved investment prospects.

17. Education policy and institutions is an area of increasing contention between nationalist groups. Together with the High Representative, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has taken the initiative to propose a standard national education curriculum and to develop a common approach for teaching contested subjects. My Special Representative has taken a keen interest in encouraging a unified education system, which is multi-ethnic and liberal in orientation, in order to resist the strong trends towards segregated structures and curricula. In this regard, UNMIBH has contributed to the work of a recent UNESCO mission to examine the feasibility of a multi-ethnic national university.

V. ENHANCING THE EFFECTIVENESS OF THE MISSION

18. By its nature, peace implementation is dynamic and must evolve in response to changed circumstances on the ground and in the wider context. This is especially true in Bosnia and Herzegovina, where all the principal international actors have recently reviewed progress made over the past four years, identified the challenges ahead and developed the more assertive measures necessary for achieving the goal of self-sustaining peace. In recent weeks, the High Representative has exercised his powers to remove 22 persistently obstructionist local officials from office and has imposed wide-ranging property law reforms that pave the way for a substantial increase in returns next year. The Organization for Security and Cooperation in Europe has banned the obstructionist Serb Radical Party from participating in the forthcoming municipal elections. Robust SFOR operations in Mostar have exposed illicit interference and illegal parallel police structures. The long-term value of these actions depends on the presence of effective rule of law institutions.

19. Substantial progress has been made in police restructuring and reform, particularly police training. However, such progress will remain superficial and incomplete unless comprehensive measures are undertaken to expose and eliminate political interference, corruption and organized crime from local police forces and the judiciary. To these ends, UNMIBH has developed an enhanced and potentially more effective strategic approach to address some of

these issues. This targeted concept of operations comprises full co-location of IPTF with key local police managers, extensive use of audits and micro-audits of police administrations, vigorous implementation of non-compliance and de-certification policies, and the co-location and active involvement of UNMIBH's judicial experts, as appropriate.

20. A more proactive and intrusive approach by UNMIBH in pursuit of its mandate will directly challenge nationalist power brokers and criminal interests, and may well lead to increased security risks for United Nations personnel. These risks are compounded by the inherent vulnerability of unarmed personnel deployed in remote locations in a generally uncertain security situation. In these circumstances, my Special Representative is deeply concerned about implementing the new concept of operations and initiating more assertive actions without having the capacity to guarantee a longer-term protection presence that will deter mischief and opposition. He is also of the view that the dedicated protection of selected United Nations personnel undertaking operations at locations where intimidation and resistance is likely, would provide the confidence essential for more effective police operations and legal proceedings against entrenched political and criminal interests.

21. In this broad context, I must express my concern over the fact that the number of security incidents involving United Nations personnel and property has increased. Since 1 September, 7 UNMIBH personnel have been victims of assaults, 11 United Nations vehicles have been damaged through malicious actions, including 5 which were damaged by a hand grenade explosion outside an IPTF station, and 11 special security alerts/travel advisories have been issued. The majority of these incidents have occurred in areas of known opposition and political extremism, including Zvornik, Prijedor and Kula in the Republika Srpska, in response to specific actions taken by the international community.

VI. OBSERVATIONS

22. Following four years of intensive engagement and major resource commitments to Bosnia and Herzegovina, the international community is reviewing what has been achieved and what more needs to be done to ensure that the peace implementation process is self-sustaining. During my visit to the country from 11 to 13 October 1999, I noted that the substantial progress in physical reconstruction had not yet been matched by progress in political integration, social reconciliation and economic development. In meetings with leaders of the country, I emphasized that they needed to make stronger efforts to breathe life into their common institutions and to support fully the rule of law and the return of refugees and displaced persons.

23. I therefore welcome the declaration adopted in New York on 15 November 1999 (S/1999/1179, annex) by the three members of the Joint Presidency and the renewed commitments they expressed in their briefing to the Council on that same day. In view of subsequent statements made by some members of the Joint Presidency, which appear to detract from the declaration adopted in New York and other commitments, the Council may wish to reinforce the message that the people of Bosnia and Herzegovina expect their leaders to meet their responsibilities and commitments in full. The inauguration and deployment of the first units of

the State Border Service by 31 December 1999 will be a litmus test of their commitment.

24. UNMIBH has made steady progress in laying the foundations for effective rule of law institutions in Bosnia and Herzegovina. The gradual decline in the high national crime rate and an increased willingness of rank and file police officers and many judicial officials to perform their work in a professional manner are encouraging signs of new attitudes. These must be supported by the people of Bosnia and Herzegovina and by the international community in order to overcome entrenched opposition from extremist political interests and criminals.

25. To these ends, the targeted and more intrusive concept of operations which UNMIBH has developed would help to consolidate progress, support local law enforcement personnel to become more vigorous in addressing sources of obstruction and criminality, and enable the Mission to complete its mandate more quickly and effectively. It is also the estimation of my Special Representative that if, for security and credibility reasons, UNMIBH is required to hold back from an assertive implementation of its mandate, momentum might be lost against those who oppose the rule of law. Under those circumstances, the establishment of effective rule of law institutions would remain a distant goal and a fundamental impediment to the combined efforts of the international community to bring self-sustaining peace to Bosnia and Herzegovina. I have therefore instructed my Special Representative to explore various options of addressing possible future security needs of UNMIBH.

26. The Mission also seeks the necessary means and authority to advance the development of a professional and independent judiciary. The establishment of judicial oversight bodies in each entity provides a unique opportunity for the international community to participate in reviewing the professional competence and independence of all judicial personnel in Bosnia and Herzegovina and in setting the standards for judicial conduct and for future appointments. The full participation of UNMIBH's judicial experts in these bodies will be a major contribution to the rule of law in Bosnia and Herzegovina and ideally on completion would signal the culmination of this part of the Mission's work and set the conditions for the accelerated transfer of these activities to local institutions in 2000.

Annex

Composition of the International Police Task Force as at 10 December 1999

Argentina	34
Austria	36
Bangladesh	29
Bulgaria	34
Canada	23
Chile	11
Denmark	29
Egypt	33
Estonia	5
Fiji	15
Finland	6
France	104
Germany	167
Ghana	100
Greece	15
Hungary	38
Iceland	4
India	126
Indonesia	30
Ireland	5
Italy	23
Jordan	117
Kenya	7
Lithuania	2
Malaysia	47
Nepal	18
Netherlands	56
Nigeria	14
Norway	21
Pakistan	97
Poland	47
Portugal	16
Romania	17
Russian Federation	21
Senegal	16
Spain	53
Sweden	55
Switzerland	6
Thailand	6
Tunisia	2
Turkey	31
Ukraine	28
United Kingdom of Great Britain and Northern Ireland	80
United States of America	141
Total	1 795